

REMARKS

Claims 1-4, 7, 8, 10-32, 39-40 and 46-51 are pending. Claims 2, 3, and 47-49 are amended.

Claims 2 and 3 were rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. Claims 2 and 3 have been amended to delete "at least." Accordingly, these claims are in full compliance with 35 U.S.C. §112.

The Examiner requires cancellation of claims 47-49 as allegedly containing new matter. These claims have been amended to specify each particular starch of potato, wheat and tapioca starch. Accordingly, favorable consideration of claims 47-49 is earnestly solicited.

Claims 1-4, 7, 10-32, 39 and 40 were rejected under 35 USC §103(a) as being unpatentable over Altieri. Altieri teaches that the starting starch material useful in its invention must be a high amylose starch, i.e., one containing at least 45% by weight of amylose. The Examiner maintains that starches from various sources can be used since Altieri teaches that other sources which are useful include those derived from any plant species which produces or can be made to produce a high amylose content starch.

The Examiner has failed to raise a prima facie rejection with respect to the present claims which specify a starch selected from the group consisting of potato, wheat and tapioca starch. The Examiner has failed to provide any supporting evidence of a potato starch, wheat starch or tapioca starch which has been modified to provide an amylose content required by Altieri, namely one containing at least 45% by weight of amylose.

Claim 51 was rejected under 35 USC §103(a) as being unpatentable over Altieri in view of Gallagher et al. In this rejection, the Examiner acknowledges that Altieri is silent about forming the expanded product of a polyester/starch blend. Gallagher et al. is applied by the Examiner for its disclosure that blends of starch with polyester are useful. Furthermore, the Examiner responds to the prior arguments by stating that nothing in Altieri limits its disclosure to high moisture content. The Examiner relies upon the disclosure of Altieri at column 3, line 52, stating a total moisture content of 21% or less.

Based upon the arguments in the prior response and Altieri's Table 3, it would seem that one of ordinary skill in the art would understand that the disclosure of a moisture content of 21% or less would not reasonably include moisture contents required by Gallagher et al. because Altieri teaches increasing total moisture content well above the 1% required by Gallagher et al. Please see Altieri at column 7, lines 55-61, which teaches that the total moisture content should be in a range from about 10-21%, preferably from about 13 to 19% and more preferably from about 14-17% by weight. Thus, contrary to the assertion of the Examiner, it would not appear that one of ordinary skill in the art would combine the teachings of the references "with a reasonable expectation of success."

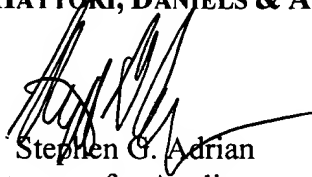
For at least the foregoing reasons, the claimed invention distinguishes over the cited art and defines patentable subject matter. Favorable reconsideration is earnestly solicited.

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If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,
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A handwritten signature in black ink, appearing to read "Stephen G. Adrian", is written over the printed name.

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